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SIPDIS

EUR (JONES), EUR/SCE (FOOKS, MCGUIRE, STINCHCOMB), S/WCI (WILLIAMSON, VIBUL-JOLLES), INR (MORIN), INL (CARROLL); NSC FOR HELGERSON; OSD FOR BEIN; DOJ FOR OPDAT (ALEXANDRE)

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SUBJECT: BOSNIA: S/WCI AMBASSADOR WILLIAMSON'S JUNE 14-16 CONSULTATIONS IN SARAJEVO

REF: SARAJEVO 689

Classified By: A/DCM Frank Ostrander for Reasons 1.4 (B) and (D)

¶1. (C) SUMMARY: S/WCI Ambassador Clint Williamson visited Sarajevo June 14-16 to discuss regional cooperation and extending past December the mandate of international judges and prosecutors working at the State Court and the State Prosecutor's Office. He met with State Justice Minister Barisa Colak, State Court President Meddzida Kreso, State Civil Affairs Minister Sredoje Novic, and Party for Democratic Action (SDA) President Sulejman Tihic, as well as HighRep Valentin Inzko and the Principal Deputy High Representative Raffi Gregorian. In all of his meetings, Ambassador Williamson provided a read-out of the June 12 meeting between State Prosecutor Milorad Barasin and Serbian War Crimes Prosecutor Vladimir Vukcevic regarding an information sharing and evidence transfer agreement between Bosnia and Serbia. He stressed strong USG support for such an agreement, saying that it is needed to bring alleged war crimes perpetrators to justice given existing bans on extradition of nationals in the region. Ambassador Williamson also reiterated strong USG support for the initiative to extend the mandate of international judges and prosecutors working on war crimes and organized crime cases. He received mixed messages from Bosnian officials on both issues. END SUMMARY.

Talks on a Bosnia-Serbia Agreement to Continue

¶2. (C) In his meetings with Bosnian interlocutors, Ambassador Williamson stressed the need for Bosnia to improve regional cooperation by signing information-sharing and evidence transfer agreements with Serbia and other countries in the region. He emphasized that as time goes by witnesses and suspects would die, evidence would be lost, and as a result there would be no accountability for many serious crimes. Currently, alleged perpetrators who are dual citizens live with impunity due to existing bans on extradition of nationals in the region. He said Bosnian officials have two options: a) they can wait for some indefinite time in the future hoping that the bans on extradition would be removed, or b) they can look for ways to ensure that alleged war criminals can be brought to justice now. Ambassador Williamson also pointed out that an existing agreement between Serbia and Croatia had been beneficial for both countries, and that the National War Crimes Strategy, which the Council of Ministers adopted in December, had provided for the signing of agreements that advance regional cooperation.

¶3. (C) Ambassador Williamson provided a briefing to all interlocutors of the June 12 meeting in Dubrovnik between State Prosecutor Milorad Barasin and Serbian War Crimes Prosecutor Vladimir Vukcevic. He said that during the at times contentious meeting, Barasin had insisted on resolving the controversial Dobrovoljaca and Tuzlanska Kolona cases by having Serbia transfer information and evidence to Bosnia. Barasin also sought Vukcevic's promise not to accept criminal complaints from Republika Srpska (Reftel). Barasin and Vukcevic subsequently decided to work on language for a draft agreement using an existing Serbia-Croatia agreement as a model (with modifications to suit Bosnia's needs) and to exchange drafts by June 21. The Ministers of Justice of both countries would then discuss the drafts and ideally finalize the agreements on June 29 during a visit by the Serbian Justice Minister to Sarajevo.

Bosnia Should Extend the Mandate of the Internationals

¶4. (C) Ambassador Williamson reiterated to Bosnian interlocutors the need for Bosnia to extend the mandates of international judges and prosecutors working on both war crimes and organized crime cases. He explained that extending the presence of the internationals was crucial to plans for the closure of the International Tribunal for the Former Yugoslavia (ICTY) and the transition of its responsibilities to national authorities. Extending the mandate of the internationals would also help Bosnia implement the National War Crimes Strategy.

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Mostly Support for Agreement with Serbia

¶5. (C) Most Bosnian interlocutors expressed support for the initiative by State Prosecutor Barasin to work on an information sharing and evidence transfer agreement with Serbia and for the U.S. role in the process. Minister Colak expressed readiness to do his part to advance the initiative.

Similarly, Civil Affairs Minister and Alliance of Independent Social Democrats (SNSD) party member Sredoje Novic also expressed support, saying that such an agreement would help lessen the caseload of the judiciary, which is already overburdened with the sheer number of war crimes cases before it. An agreement would also have the added benefit of reducing tensions with Serbia. Notably, Party for Democratic Action (SDA) President Sulejman Tihic informed Ambassador Williamson that, though his party had been opposed to them in the past, it now supports information sharing and evidence transfer agreements since the worst outcome is to maintain the current situation. Tihic suggested that the OSCE could play an important role by monitoring the cases involving cross-border information sharing and evidence transfers. He also stressed the need to engage the tri-Presidency on the issue. Tihic said that if he were to express public support for the initiative, he would draw criticism from Haris Silajdzic, so he requested US engagement of Silajdzic to secure his support for the agreement.

¶6. (C) Unlike other Bosnian interlocutors, State Court President Kreso was lukewarm to the idea of signing an agreement with Serbia. Kreso catalogued a list of concerns she had with the idea, noting that alleged perpetrators should be tried in the country where their crimes were committed, that Bosnia would lose control of cases if it were to enter into regional cooperation agreements, and that problems would arise if different evidentiary standards were used in the region. Kreso also advised against Barasin engaging in a one man effort to sign an agreement with Serbia as he ran the risk of being on the receiving end of tremendous backlash from victims' groups. She emphasized the need for her to have a leading role in the negotiations on an agreement. Ambassador Williamson spoke at length about key

features of such agreements in an effort to address Kreso's misperceptions about them. He noted the voluntary nature of these agreements, plans for incremental exchanges of information and evidence transfers to build confidence on all sides, and the ability for the sending country to request the return of information and evidence that was shared.

Ambassador Williamson also pointed out the successes that Croatia and Serbia had had to date with their agreement.

¶17. (SBU) The influential television program 60 minutes weighed in on the issue by airing an inflammatory piece on the "secret" meeting between Barasin and Vukcevic in Dubrovnik over the weekend. The show falsely claimed that Vukcevic had intended to pressure Barasin to sign an agreement which would provide Serbia access to all war crimes cases being investigated and prosecuted by the State Prosecutor's Office. It also alleged that such an agreement would give Serbia the ability to influence witnesses and to take over the cases it wanted. Finally, the piece warned that if Bosnia signs an agreement with Serbia, the "BiH Prosecutor's Office would capitulate." In response to this uninformed reporting, the Embassy spoke to the show's producer to set the record straight on the issue. The producer acknowledged our concerns and said that he would give Barasin the opportunity to clarify the issue.

Mixed Feedback on International Judges, Prosecutors

¶18. (C) On the question of extending the mandate of international judges and prosecutors, Ambassador Williamson received mixed responses from Bosnian interlocutors. Tihic said he supports extending the presence of internationals working on both war crimes and organized crime cases. (Note: Tihic did not explain why two Ministers from his party, Security Minister Tarik Sadovic and Defense Minister Selmo Cikotic, voted against the proposal Minister Colak presented to the Council of Ministers. We understand that Sadovic may have been trying to get back at Tihic who has been

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considering ousting Sadovic from his position. End Note) Minister Colak said he intended to resubmit to the Council of Ministers his proposal to extend the mandate of international judges and prosecutors working on war crimes in the coming days. Colak said that he would include a provision to extend the mandate of first-instance judges working on five cases that will not be completed by December and would consider asking for a three-year mandate requested by Barasin and State Court President Meddzida Kreso. However, he would not incorporate an extension of the mandate of internationals working on organized crime into the existing proposal, believing that there was opposition across the board to those individuals remaining in place.

¶19. (C) While he intimated that he was still willing to consider extending the mandate of the international judges and prosecutors, Minister Novic expressed concerns with the initiative. He criticized international judges and prosecutors for failing to transfer capacity to their local colleagues. He also criticized Barasin and Kreso for not presenting their arguments for the extension directly to the Council of Ministers and the international judges and prosecutors for failing to successfully prosecute several organized crime cases. Novic made clear that he would like to see Kreso and Barasin address these weaknesses and to present a transitional plan that would ensure that they would not be seeking an extension in the future if the mandate of internationals were to be extended. In response, Ambassador Williamson explained that Kreso and Barasin had discussed the issue only with Justice Minister Colak, rather than other elected officials, in an effort to uphold the independence of the judiciary and to avoid politicizing the process. Ambassador Williamson also acknowledged that Minister Novic had raised some legitimate concerns about the extensions and that these should be discussed when the proposal is

reconsidered.

The View From OHR

¶10. (C) Principal Deputy High Representative (PDHR) Raffi Gregorian acknowledged that State Court President Kreso was "one of the problems" with regard to regional cooperation agreements and expressed support for the US-facilitated initiative. High Representative Valentin Inzko did not discuss in detail the issue of extending the mandate of international judges and prosecutors, except to say that the issue was a difficult one. The HighRep Valentin and PDHR also shared their views on other war crimes-related issues. Inzko expressed the view that Ratko Mladic had changed his identity and was hiding in Belgrade, while Gregorian shared his disappointment that the USG was no longer engaged in the hunt for PIFWCS (Persons Indicted for War Crimes) in Bosnia. Gregorian also said that he would be writing to the Ambassador about placing the RS-based company "Alpha Security" on a PIFWC watch list, noting that it is part of Mladic's support network, and requested Ambassador Williamson's support for the initiative.

Comment

¶11. (C) The reactions from our Bosnian interlocutors regarding regional cooperation agreements further confirm that there is growing interest in such an agreement. However, there is still much work to be done to overcome opposition to the proposal. Discussions in Dubrovnik ended with an agreement on five points. Prosecutors Barasin and Vukcevic agreed that bilateral cooperation is needed, war criminals will live with impunity without an agreement, domestic law applies to these prosecutions, prosecutors will share information under an agreement, and there is a need to create joint investigative teams. While the prosecutors agreed to use this platform as a basis for an agreement that would be finalized on June 21, we were told that Kreso had met Barasin in Dubrovnik between meeting sessions. We believe she tried to walk him back from this agreement and will continue to be a stumbling block as Vukcevic and the USG try to advance the issue. An agreement would also likely meet with some resistance from Bosniak victim groups and probably Haris Silajdzic.

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¶12. (C) The discussions regarding extending the mandate of the international judges and prosecutors also further highlight the continuing battle we are facing on the issue. While Bosnian Serb representative Novic appears willing to discuss the issue, it is unclear whether the Bosnian Serbs plan to change their position and at least support the imperfect proposal Colak intends to re-submit to the Council of Ministers. It is also worrisome that we are in the unenviable position of having to court the Bosniak vote on the issue.

¶13. (U) Ambassador Williamson has cleared this cable.
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